

AMENDED IN SENATE JUNE 22, 2016

AMENDED IN SENATE MAY 17, 2016

AMENDED IN SENATE MAY 3, 2016

AMENDED IN SENATE MARCH 31, 2016

AMENDED IN SENATE JULY 2, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 934

Introduced by Assembly Member Bonilla

February 26, 2015

An act to amend Sections 1296, ~~44270~~, 44270.1, ~~44664~~, 44670, 44671, 44830.1, 44885.5, 44901, 44929.21, ~~44929.23~~, 44934, 44937, 44938, 44943, 44944.05, 44945, and ~~44955~~ and 44929.23 of, to amend the heading of Article 13 (commencing with Section 44670) of Chapter 3 of Part 25 of Division 3 of Title 2 of, ~~to add Sections 44934.2 and 44944.2 to~~, and to add Article 4.6 (commencing with Section 44520) and Article 4.7 (commencing with Section 44550) to Chapter 3 of Part 25 of Division 3 of Title 2 of, the Education Code, and to amend Section 3543.2 of the Government Code, relating to certificated school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 934, as amended, Bonilla. Certificated school employees.

(1) Existing law establishes the California Peer Assistance and Review Program for Teachers, which authorizes the governing board of a school district and the exclusive representative of the certificated

employees in the school district to develop and implement a peer review program *that* meets local conditions and conforms to specified principles.

~~This bill would require each school district to create a 2-year teacher support program, through collective bargaining, if requested by the school district or the exclusive representative, that would allow a highly effective certificated employee to support a certificated employee demonstrating unsatisfactory performance to become proficient in the California Standards for the Teaching Profession. The bill would require each school district to create a multiple-day principal and vice principal administrator training program on how to evaluate teachers and would require specified administrators—demonstrating unsatisfactory performance to participate in the program. By imposing additional duties on school districts, the bill would impose a state-mandated local program. The bill would also encourage each school district to create a one-year principal or vice principal principal, vice principal, or assistant principal, as applicable, support program that would allow highly effective school administrators to support specified principals or vice principals principals, vice principals, or assistant principals, as applicable, demonstrating unsatisfactory performance to become proficient in the California Professional Standards for Educational Leaders.~~

~~(2) Existing law requires school districts to evaluate each certificated employee on a continuous basis, as specified. Existing law also authorizes an employing authority to require a certificated employee who receives an evaluation including an unsatisfactory rating of an employee's performance in the area of teaching methods or instruction to participate in a program designed to improve appropriate areas of the employee's performance and to further pupil achievement and the instructional objectives of the employing authority. Existing law also requires a school district, if it participates in the California Peer Assistance and Review Program for Teachers, to require any certificated employee who receives an unsatisfactory rating on an evaluation to participate in that program.~~

~~This bill would instead require a certificated employee who receives an annual evaluation in the lowest category of performance in the area of teaching methods or instruction to participate in either the California Peer Assistance and Review Program for Teachers or the district-designed teacher support program discussed above. By imposing~~

~~additional duties on school districts, the bill would impose a state-mandated local program.~~

~~(3)~~

(2) Existing law authorizes the governing board of a school district to evaluate a school principal, as provided. Existing law also authorizes the governing board of a school district to use the California Professional Standards for Educational Leaders as the criteria for evaluating a school principal.

This bill would require the governing board of a school district to annually evaluate a school ~~principal and vice principal~~ *principal, vice principal, and assistant principal, as applicable*, for the first and 2nd year of employment. The bill would require the superintendent of a school district to annually ~~provide reports on the evaluation or nonevaluation of principals and vice principals~~ *submit a report outlining his or her plan for the evaluation and support of principals, vice principals, and assistant principals, as applicable, of the school district* to the governing board of the school district. The bill would also require the governing board of a school district to use the California Professional Standards for Educational Leaders as the criteria for evaluating a school ~~principal or vice principal~~ *principal, vice principal, or assistant principal, as applicable*. By imposing additional duties on school districts, the bill would impose a state-mandated local program. The bill would express the intent of the Legislature that every school ~~principal and vice principal~~ *principal, vice principal, and assistant principal, as applicable*, be evaluated as frequently as necessary to ensure, in the view of the governing board of the school district, that they are satisfactorily proficient in the California Professional Standards for Educational Leaders and are performing effective evaluations of teachers.

~~(4) Existing law prohibits a permanent school employee from being dismissed, except for one or more of certain enumerated causes, including unsatisfactory performance. Existing law requires the governing board of a school district to give notice, together with a written statement of charges, to a permanent employee of its intention to dismiss or suspend the employee at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing.~~

~~This bill would authorize proceedings based solely on charges of unsatisfactory performance to be initiated via an alternative process, which this bill would establish.~~

~~(5) Existing law establishes the process for dismissal or suspension hearing proceedings for certificated employees.~~

~~This bill would instead provide for a binding arbitration process for charges based solely on unsatisfactory performance, which this bill would establish.~~

~~(6) Existing law prohibits the governing board of a school district from acting upon any charges of unsatisfactory performance unless, at least 90 calendar days before the date of the filing or before the beginning of the time period composed of the last $\frac{1}{4}$ of the schooldays, the governing board of the school district provides the employee written notice of the unsatisfactory performance, specifying the nature thereof with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his or her faults and overcome the grounds for the charge.~~

~~This bill would instead prohibit the governing board of a school district from acting upon any charges of unsatisfactory performance against a permanent employee unless the employee against whom the charge is filed has completed at least one year of the California Peer Assistance and Review Program for Teachers or a district-designed teacher or administrator support program.~~

~~(7) Existing law authorizes a decision reached in a dismissal or suspension proceeding concerning a certificated employee to be reviewed by a court of competent jurisdiction.~~

~~This bill would make this statutory procedure inapplicable to a decision based solely on unsatisfactory performance reached in a dismissal or suspension proceeding concerning a certificated employee.~~

~~(8)~~

~~(3) Existing law requires a certificated employee who has completed 2 years of service to the school district as ~~an intern or a~~ probationary ~~employee employee, or one year as an intern and a succeeding year as a probationary employee,~~ and who is further reelected and employed during the succeeding school year to be classified as a permanent employee.~~

~~This bill would instead require a certificated employee who has completed 3 years of service to the school district as ~~an intern or a~~ probationary ~~employee employee, or one year as an intern and 2 succeeding years as a probationary employee,~~ and who is further reelected and employed during the succeeding school year to be classified as a permanent employee, ~~unless the governing board of the school district chooses to continue to classify the certificated employee~~~~

~~as a probationary employee for a 4th year, as provided. The bill would require each 3rd- and 4th-year probationary 3rd-year employee of a school district who is probationary to participate in the California Peer Assistance and Review Program for Teachers or a district-designed teacher support program. continue to participate in the mentoring relationships with the support and professional development providers initiated during the California beginning teacher support and assessment program.~~

Existing law requires each person who, after being employed for 2 complete consecutive school years by a county superintendent of schools in a teaching position, as specified, is reelected for the next succeeding school year to such a position to be classified as a permanent employee of the county superintendent of schools.

This bill would instead require each certificated employee who, after being employed for 3 complete consecutive school years by a county superintendent of schools in a teaching position, as specified, is reelected for the next succeeding school year to such a position to be classified as a permanent employee of the county superintendent of schools, ~~unless the county superintendent of schools chooses to continue to classify the certificated employee as a probationary employee for a 4th year, as provided. The bill would require each 3rd- and 4th-year 3rd-year probationary employee of a county superintendent of schools, if the county superintendent of schools participates in the California Peer Assistance and Review Program for Teachers, to participate in the program. schools to continue to participate in the mentoring relationships with the support and professional development providers initiated during the California beginning teacher support and assessment program.~~

~~This bill would provide that, notwithstanding any other law, a 3rd- or 4th-year probationary employee shall not be released or dismissed without cause and may appeal release or dismissal.~~

(9)

(4) Existing law provides that a certificated employee who has served in 2 or more school districts governed by governing boards of identical personnel, as specified, for a total of 2 complete consecutive school years, upon being elected for the 3rd consecutive school year in either school district, shall, at the commencement of that year, be classified as a permanent employee of the last school district in which he or she was employed prior to election for the 3rd year.

This bill would instead provide that a certificated employee who has served in 2 or more school districts governed by governing boards of identical personnel for a total of 3 complete consecutive school years, upon being elected for the 4th consecutive school year in either school district, shall, at the commencement of that 4th year, be classified as a permanent employee of the last school district in which he or she was employed before election for the 4th year.

Existing law also provides that, where there are 2 or more school districts governed by governing boards of identical personnel, as specified, a certificated employee who has served in one of the school districts for 2 complete consecutive school years, upon being elected for a 3rd consecutive school year in any of the school districts, shall, at the commencement of that 3rd year, be classified as a permanent employee of the last school district in which he or she was employed prior to election for the 3rd year.

This bill would instead provide that, where there are 2 or more school districts governed by governing boards of identical personnel, as specified, a certificated employee who has served in one of the school districts for 3 complete consecutive school years, upon being elected for a 4th consecutive school year in any of the school districts, shall, at the commencement of that 4th year, be classified as a permanent employee of the last school district in which he or she was employed before election for the 4th year.

~~(10) Existing law authorizes the governing board of a school district to decrease the number of permanent employees of a school district, based on seniority, when a reduction in workforce is required due to specific circumstances, as provided. Existing law prohibits, except as otherwise provided, the services of a permanent employee from being terminated in these situations while any probationary employee, or any other employee with less seniority, is retained to render a service which the permanent employee is certificated and competent to render.~~

~~This bill would instead require the governing board of a school district, when a reduction in workforce is required, to terminate certificated employees in a specified order based on both seniority and evaluations of performance.~~

~~(11) Under existing law, the minimum requirements for a preliminary services credential with a specialization in administrative services include completion of a minimum of 3 years of successful, full-time classroom teaching experience or 3 years of experience in the field of pupil personnel, health, clinical or rehabilitative, or librarian services.~~

~~This bill would instead provide that the minimum requirements for a preliminary services credential with a specialization in administrative services include completion of 5 years of successful, full-time classroom teaching experience or 5 years of experience in the field of pupil personnel, health, clinical or rehabilitative, or librarian services, or a combination of those experiences equal to 5 years.~~

(5) Under existing law, the minimum requirements for a professional services credential with a specialization in administrative services include the completion of an individualized program of professional development activities and 2 years of successful experience in a full-time administrative position.

This bill would require a credential candidate to complete the individualized program during the first 2 years of experience in a full-time administrative position and would require the individualized program to include training on how to properly and effectively evaluate certificated employees.

(6) Existing law requires the public school employer and the exclusive representative, upon request of either party, to meet and negotiate regarding causes and procedures for disciplinary action, other than dismissal, including a suspension of pay for up to 15 days, affecting certificated employees.

This bill instead would require the public school employer and the exclusive representative, upon request of either party, to meet and negotiate regarding causes and procedures for disciplinary action, including, but not limited to, a suspension of pay for up to 15 days or dismissal, affecting certificated employees. By imposing additional duties on school districts, the bill would impose a state-mandated local program.

~~(12)~~

(7) This bill would also make conforming changes and nonsubstantive changes.

~~(13)~~

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature that this act shall
2 not affect any existing requirements imposed pursuant to Article
3 11 (commencing with Section 44660) of Chapter 3 of Part 25 of
4 Division 3 of Title 2 of the Education Code.

5 SEC. 2. Section 1296 of the Education Code is amended to
6 read:

7 1296. (a) (1) If the average daily attendance of the schools
8 and classes maintained by a county superintendent of schools is
9 250 pupils or more, each person who, after being employed for
10 three complete consecutive school years by the county
11 superintendent of schools in a teaching position in those schools
12 or classes requiring certification qualifications and whose salary
13 is paid from the county school service fund, is reelected for the
14 next succeeding school year to such a position in those schools or
15 classes shall be classified as and become a permanent employee
16 of the county superintendent of schools.

17 (2) An employee described in paragraph (1) shall have the same
18 rights and duties as employees of school districts to which Section
19 44929.21 applies. Sections 44842, 44929.21, 44948.3, and 44948.5
20 apply to these employees.

21 (3) This subdivision shall apply only to probationary employees
22 whose probationary period commenced before the 1983–84 fiscal
23 year.

24 (b) (1) If the average daily attendance of the schools and classes
25 maintained by a county superintendent of schools is 250 pupils or
26 more, a highly effective certificated employee who, after being
27 employed for three complete consecutive school years by the
28 county superintendent of schools in a teaching position in those
29 schools or classes requiring certification qualifications and whose
30 salary is paid from the county school service fund, is reelected for
31 the next succeeding school year to such a position in those schools
32 or classes shall be classified as and become a permanent employee
33 of the county superintendent of schools.

34 (2) An employee described in paragraph (1) shall have the same
35 rights and duties as employees of school districts to which Section

1 44929.21 applies. Sections 44842, 44929.21, 44948.3, and 44948.5
2 apply to these employees.

3 ~~(e) (1) Notwithstanding subdivision (b), the county~~
4 ~~superintendent of schools may require a certificated employee,~~
5 ~~who after having been employed by the county superintendent of~~
6 ~~schools for three complete consecutive school years and who is~~
7 ~~further reelected and employed during the succeeding school year,~~
8 ~~to continue to be classified as a probationary employee for a fourth~~
9 ~~year.~~

10 (2)
11 (c) A certificated employee who is reelected as a probationary
12 employee pursuant to this subdivision or to a third complete
13 consecutive school year as described in subdivision (b) shall, if
14 the county office of education participates in the California Peer
15 Assistance and Review Program for Teachers established pursuant
16 to Article 4.5 (commencing with Section 44500) of Chapter 3 of
17 Part 25 of Division 3 of Title 2, participate in the program: *shall*
18 *continue to participate in the mentoring relationships with the*
19 *support and professional development providers initiated during*
20 *the California beginning teacher support and assessment program*
21 *pursuant to Section 44279.2. The employee is not required to*
22 *continue other aspects of the California beginning teacher support*
23 *and assessment program during his or her third year.*

24 ~~(3) Notwithstanding any other law, a third- or fourth-year~~
25 ~~probationary employee shall not be released or dismissed without~~
26 ~~cause and may appeal release or dismissal to the county board of~~
27 ~~education.~~

28 ~~(4) During the third and fourth year as a probationary employee,~~
29 ~~the employee shall be observed by multiple administrators,~~
30 ~~including an administrator from a schoolsite other than the~~
31 ~~schools site at which the employee is on probation, and teacher~~
32 ~~peers. Administrators and teacher peers observing the third-year~~
33 ~~probationary employee shall provide feedback to the county~~
34 ~~superintendent of schools regarding the probationary employee's~~
35 ~~proficiency with the California Standards for the Teaching~~
36 ~~Profession, adopted by the Commission on Teacher Credentialing.~~

37 ~~(5) A third-year probationary employee may be dismissed for~~
38 ~~cause or shall be retained for a fourth year as a probationary~~
39 ~~employee after one year of the support program.~~

(d) (1) Notwithstanding subdivision (c), a certificated employee who had previously been granted permanent status by another county superintendent of schools and who is further reelected and employed during the succeeding school year as described in subdivision (b) shall, upon reelection for the next succeeding school year to a position requiring certification qualifications, be classified as and become a permanent employee by the county superintendent of schools.

(2) Nothing in this subdivision shall be interpreted to authorize a certificated employee who has not previously been granted permanent status by another county superintendent of schools to gain permanent status without meeting the requirements of subdivision (b) or (c).

(e) The county superintendent of schools shall notify a certificated employee, on or before March 15 of the certificated employee's third school year of probationary employment in a position requiring certification qualifications, of the decision to reelect as a permanent employee, reelect as a probationary employee, or not reelect the certificated employee for the next succeeding school year to this type of position. ~~The county superintendent of schools shall notify a certificated employee, on or before March 15 of the certificated employee's fourth school year of probationary employment in a position requiring certification qualifications, of the decision to reelect as a permanent employee or not reelect the certificated employee for the next succeeding school year to this type of position.~~ If the county superintendent of schools does not give notice pursuant to this section on or before March 15, a certificated employee shall be deemed reelected as a permanent employee for the next succeeding school year.

(f) To the extent that this section as amended by Assembly Bill 934 of the 2015–16 Regular Session conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2017, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the changes made to this section by Assembly Bill 934 of the 2015–16 Regular Session shall not apply until expiration or renewal of that collective bargaining agreement.

(g) Subdivisions (b) to (f), inclusive, shall apply only to probationary employees whose probationary period commenced during the 1983–84 fiscal year or any fiscal year thereafter.

(h) As used in this section, the following definitions shall apply:

(1) “Highly effective certificated employee” means a certificated employee who, in the view of the county superintendent of schools, demonstrates proficiency with the California Standards for the Teaching Profession.

(2) “Teaching position” means a certificated position designated as of January 1, 1983, by the county board of education or the county superintendent of schools as a teaching position for the purpose of granting probationary or permanent status.

~~SEC. 3. Section 44270 of the Education Code is amended to read:~~

~~44270. (a) The minimum requirements for the preliminary services credential with a specialization in administrative services shall include all of the following:~~

~~(1) Possession of one of the following:~~

~~(A) A valid teaching credential requiring the possession of a baccalaureate degree and a professional preparation program including student teaching.~~

~~(B) A valid designated subjects career technical education, adult education, or special subjects teaching credential, as specified in Section 44260, 44260.1, 44260.2, 44260.3, or 44260.4, provided the candidate also possesses a baccalaureate degree.~~

~~(C) A valid services credential with a specialization in pupil personnel, health, or clinical or rehabilitative services, as specified in Section 44266, 44267, 44267.5, or 44268, or a valid services credential authorizing service as a teacher librarian, as specified in Section 44269.~~

~~(D) A valid credential issued under the laws, rules, and regulations in effect on or before December 31, 1971, which authorizes the same areas as in subparagraphs (B) and (C).~~

~~(2) Completion of any of the following:~~

~~(A) Five years of successful, full-time classroom teaching experience in the public schools, including, but not limited to, service in state- or county-operated schools, or in private schools of equivalent status.~~

~~(B) Five years of experience in the fields of pupil personnel, health, clinical or rehabilitative, or librarian services.~~

1 ~~(C) A combination of the types of experience described in~~
2 ~~subparagraphs (A) and (B) equal to five years, counting concurrent~~
3 ~~experiences only once.~~

4 ~~(3) Completion of an entry-level program of specialized and~~
5 ~~professional preparation in administrative services approved by~~
6 ~~the commission or a one-year internship in a program of supervised~~
7 ~~training in administrative services, approved by the commission~~
8 ~~as satisfying the requirements for the preliminary services~~
9 ~~credential with a specialization in administrative services.~~

10 ~~(4) Current employment in an administrative position after~~
11 ~~completion of professional preparation as described in paragraph~~
12 ~~(3), whether full or part time, in a public school or private school~~
13 ~~of equivalent status. The commission shall encourage school~~
14 ~~districts to consider the recency of preparation or professional~~
15 ~~growth in school administration as one of the criteria for~~
16 ~~employment.~~

17 ~~(b) The preliminary administrative services credential shall be~~
18 ~~valid for a period of five years from the date of initial employment~~
19 ~~in an administrative position, whether full or part time, and shall~~
20 ~~not be renewable.~~

21 ~~(e) A candidate who completed, by September 30, 1984, the~~
22 ~~requirements for the administrative services credential in effect~~
23 ~~on June 30, 1982, is eligible for the credential authorized under~~
24 ~~those requirements. All other candidates shall satisfy the~~
25 ~~requirements set forth in this section.~~

26 ~~SEC. 4.~~

27 ~~SEC. 3.~~ Section 44270.1 of the Education Code is amended to
28 ~~read:~~

29 44270.1. (a) The minimum requirements for the professional
30 services credential with a specialization in administrative services
31 shall include all of the following:

32 (1) Possession of a valid preliminary administrative services
33 credential, as specified in Section 44270.

34 (2) A minimum of two years of successful experience in a
35 full-time administrative position in a public school or private school
36 of equivalent status, while holding the preliminary administrative
37 services credential, as attested by the employing school district or
38 agency, including, but not limited to, the department, in the case
39 of state school administrators, and county offices of education, in
40 the case of county school administrators.

1 (3) (A) Completion of a commission-approved program of
2 advanced preparation. Each candidate, in consultation with
3 employing school district personnel and university personnel, shall
4 develop an individualized program of professional development
5 activities for this advanced preparation program based upon
6 individual needs. Each individualized program shall include
7 university coursework and may include, nonuniversity activities
8 or advanced administrative field experiences. The commission
9 shall adopt standards and criteria for the university programs of
10 advanced preparation and nonuniversity activities.

11 (B) Each individualized program shall include training on how
12 to properly and effectively evaluate certificated employees.

13 (4) A credential candidate shall complete the individualized
14 program pursuant to paragraph (3) during the first two years of
15 experience in a full-time administrative position.

16 (b) The commission may, at the request of a credential candidate,
17 grant a waiver, pursuant to subdivision (m) of Section 44225, of
18 the requirement of university coursework upon its finding that the
19 candidate, in consultation with personnel of the employing school
20 district and personnel of the university, is not able to develop an
21 individualized program of professional development for the
22 advanced preparation program that meets the individual needs of
23 the candidates.

24 ~~SEC. 5. Article 4.6 (commencing with Section 44520) is added~~
25 ~~to Chapter 3 of Part 25 of Division 3 of Title 2 of the Education~~
26 ~~Code, to read:~~

27
28 ~~Article 4.6. District-Designed Teacher Support Programs~~
29

30 ~~44520. (a) Each school district shall create, in accordance with~~
31 ~~subdivision (f) of Section 3543.2 of the Government Code, if~~
32 ~~applicable, a two-year teacher support program allowing a highly~~
33 ~~effective certificated employee to support a certificated employee~~
34 ~~demonstrating unsatisfactory performance to become proficient~~
35 ~~in the California Standards for the Teaching Profession in order~~
36 ~~to become a highly effective certificated employee.~~

37 ~~(b) For purposes of this section, the following terms have the~~
38 ~~following meanings:~~

39 ~~(1) A “highly effective certificated employee” means a~~
40 ~~certificated employee who, in the view of the governing board of~~

1 the school district, demonstrates proficiency with the California
2 Standards for the Teaching Profession or district-developed
3 standards that align with the California Standards for the Teaching
4 Profession. Proficiency shall be demonstrated by an evaluation
5 that conforms with Article 11 (commencing with Section 44660)
6 designating the certificated employee in the highest category the
7 school district has established pursuant to subdivision (c) of Section
8 44664.

9 (2) An “employee demonstrating unsatisfactory performance”
10 means a certificated employee who, in the view of the governing
11 board of the school district, does not demonstrate proficiency with
12 the California Standards for the Teaching Profession or
13 district-developed standards that align with the California Standards
14 for the Teaching Profession. This lack of proficiency shall be
15 demonstrated by an evaluation that conforms with Article 11
16 (commencing with Section 44660) designating the certificated
17 employee in the lowest category that the school district has
18 established pursuant to subdivision (c) of Section 44664.

19 SEC. 6.

20 SEC. 4. Article 4.7 (commencing with Section 44550) is added
21 to Chapter 3 of Part 25 of Division 3 of Title 2 of the Education
22 Code, to read:

23
24 Article 4.7. District-Designed Administrator Support Programs

25
26 44550. Each school district is encouraged to create a one-year
27 ~~principal or vice principal~~ *principal, vice principal, or assistant*
28 *principal, as applicable*, support program allowing a highly
29 effective school administrator, as determined by the school district,
30 to support a ~~principal or vice principal~~ *principal, vice principal,*
31 *or assistant principal, as applicable*, who has completed the
32 individualized program for a professional services credential with
33 a specialization in administrative services pursuant to subdivision
34 (a) of Section 44270.1 and who is demonstrating unsatisfactory
35 performance, as determined by the school district, to become
36 proficient in the California Professional Standards for Educational
37 Leaders.

38 44551. (a) ~~Each school district shall create a multiple-day~~
39 ~~principal and vice principal~~ *administrator* training program on
40 how to evaluate teachers. *The multiple-day administrator training*

1 *program shall only be completed by principals, vice principals,*
2 *or assistant principals, as applicable, who evaluate teachers.*

3 ~~(b) An administrator who has received the professional services~~
4 ~~credential with a specialization in administrative services and who~~
5 ~~is demonstrating unsatisfactory performance, as determined by the~~
6 ~~school district, shall participate in the multiple-day principal and~~
7 ~~vice principal training program.~~

8 SEC. 7. ~~Section 44664 of the Education Code is amended to~~
9 ~~read:~~

10 44664. ~~(a) Evaluation and assessment of the performance of~~
11 ~~each certificated employee shall be made on a continuing basis as~~
12 ~~follows:~~

13 ~~(1) At least once each school year for probationary personnel.~~

14 ~~(2) At least every other year for personnel with permanent status.~~

15 ~~(3) At least every five years for personnel with permanent status~~
16 ~~who have been employed at least 10 years with the school district,~~
17 ~~are highly qualified, if those personnel occupy positions that are~~
18 ~~required to be filled by a highly qualified professional by the~~
19 ~~federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301~~
20 ~~et seq.), as defined in 20 U.S.C. Sec. 7801, and whose previous~~
21 ~~evaluation rated the employee as meeting or exceeding standards,~~
22 ~~if the evaluator and certificated employee being evaluated agree.~~
23 ~~The certificated employee or the evaluator may withdraw consent~~
24 ~~at any time.~~

25 ~~(b) The evaluation shall include recommendations, if necessary,~~
26 ~~as to areas of improvement in the performance of the certificated~~
27 ~~employee. If a certificated employee is not performing his or her~~
28 ~~duties in a satisfactory manner according to the standards~~
29 ~~prescribed by the governing board of the school district, the~~
30 ~~employing authority shall notify the certificated employee in~~
31 ~~writing of that fact and describe the unsatisfactory performance.~~
32 ~~The employing authority shall thereafter confer with the certificated~~
33 ~~employee making specific recommendations as to areas of~~
34 ~~improvement in the certificated employee's performance and~~
35 ~~endeavor to assist the employee in his or her performance. If any~~
36 ~~permanent certificated employee has received an unsatisfactory~~
37 ~~evaluation, the employing authority shall annually evaluate the~~
38 ~~employee while the employee is in the California Peer Assistance~~
39 ~~and Review Program for Teachers established pursuant to Article~~
40 ~~4.5 (commencing with Section 44500) or a district-designed, and~~

1 collectively bargained for, if applicable, teacher support program
2 established pursuant to Article 4.6 (commencing with Section
3 44520) until the employee achieves a positive evaluation or is
4 separated from the school district. Evaluation performed pursuant
5 to this article during the California Peer Assistance and Review
6 Program for Teachers established pursuant to Article 4.5
7 (commencing with Section 44500) shall include the participation
8 of an administrator from a school district other than the school
9 district employing the certificated employee.

10 (e) A school district shall establish at least four categories of
11 performance for certificated employees. At least two of these
12 categories shall designate performance at a satisfactory level or
13 greater. At least two of these categories shall designate performance
14 below a satisfactory level.

15 (d) (1) A certificated employee who receives an evaluation
16 performed pursuant to this article in the lowest category of
17 performance in the area of teaching methods or instruction shall
18 participate in a program designed to improve appropriate areas of
19 the employee's performance and to further pupil achievement and
20 the instructional objectives of the employing authority.

21 (2) If a school district participates in the California Peer
22 Assistance and Review Program for Teachers established pursuant
23 to Article 4.5 (commencing with Section 44500), a certificated
24 employee who receives a rating in the lowest category of
25 performance on an evaluation performed pursuant to this section
26 shall participate in the California Peer Assistance and Review
27 Program for Teachers.

28 (3) If a school district does not participate in the California Peer
29 Assistance and Review Program for Teachers established pursuant
30 to Article 4.5 (commencing with Section 44500), a certificated
31 employee who receives a rating in the lowest category of
32 performance on an evaluation performed pursuant to this section
33 shall participate in a district-designed, and collectively bargained
34 for, if applicable, teacher support program established pursuant to
35 Article 4.6 (commencing with Section 44520).

36 (e) Hourly and temporary hourly certificated employees, other
37 than those employed in adult education classes who are excluded
38 by the provisions of Section 44660, and substitute teachers may
39 be excluded from the provisions of this section at the discretion
40 of the governing board of the school district.

(f) ~~To the extent that this section as amended by Assembly Bill 934 of the 2015–16 Regular Session conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2017, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the changes made to this section by Assembly Bill 934 of the 2015–16 Regular Session shall not apply until expiration or renewal of that collective bargaining agreement.~~

~~SEC. 8.~~

SEC. 5. The heading of Article 13 (commencing with Section 44670) of Chapter 3 of Part 25 of Division 3 of Title 2 of the Education Code is amended to read:

Article 13. ~~Principal and Vice Principal~~ *Principal, Vice Principal, and Assistant Principal* Evaluation System

~~SEC. 9.~~

SEC. 6. Section 44670 of the Education Code is amended to read:

44670. (a) The governing board of a school district may identify who will conduct the evaluation of each school ~~principal and vice principal~~ *principal, vice principal, and assistant principal, as applicable*.

(b) Every school ~~principal and vice principal~~ *principal, vice principal, and assistant principal, as applicable*, shall be evaluated annually for the first and second year of employment as a new ~~principal or vice principal~~ *principal, vice principal, or assistant principal, as applicable*, in a school district. The governing board of the school district may determine the frequency of evaluations after this period, ~~which shall include evaluations at regular intervals~~ *period*.

(c) Additional evaluations that occur outside of the regular intervals determined by the governing board of the school district may be agreed upon between the evaluator and the ~~principal or vice principal~~ *principal, vice principal, or assistant principal, as applicable*.

(d) Evaluators and ~~principals or vice principals~~ *principals, vice principals, or assistant principals, as applicable*, may review

1 school success and progress throughout the year. This review
2 should include goals that are defined by the school district.

3 (e) ~~The superintendent of a school district shall annually provide~~
4 ~~reports on the evaluation of principals and vice principals or of~~
5 ~~the school district superintendent's decision not to evaluate~~
6 ~~principals and vice principals~~ *submit a report to the governing*
7 *board of the school district, district outlining his or her plan for*
8 *the evaluation and support of principals, vice principals, and*
9 *assistant principals, as applicable, of the school district.*

10 (f) It is the intent of the Legislature that every school ~~principal~~
11 ~~and vice principal~~ *principal, vice principal, and assistant principal,*
12 *as applicable,* shall be evaluated as frequently as necessary to
13 ensure, in the view of the governing board of the school district,
14 that they are satisfactorily proficient in the California Professional
15 Standards for Educational Leaders and are performing effective
16 evaluations of teachers.

17 ~~SEC. 10.~~

18 *SEC. 7.* Section 44671 of the Education Code is amended to
19 read:

20 44671. (a) Criteria for effective school ~~principal or vice~~
21 ~~principal~~ *principal, vice principal, or assistant principal, as*
22 *applicable,* evaluations shall be based upon the California
23 Professional Standards for Educational Leaders. These standards
24 identify a school administrator as being an educational leader who
25 promotes the success of all pupils through leadership that fosters
26 all of the following:

- 27 (1) A shared vision.
28 (2) Effective teaching and learning.
29 (3) Management and safety.
30 (4) Parent, family, and community involvement.
31 (5) Professional and ethical leadership.
32 (6) Contextual awareness.

33 (b) A school ~~principal or vice principal~~ *principal, vice principal,*
34 *or assistant principal, as applicable,* evaluation may include, but
35 not be limited to, evidence of all of the following:

- 36 (1) Academic growth of pupils based on multiple measures that
37 may include pupil work as well as pupil and school longitudinal
38 data that demonstrates pupil academic growth over time.
39 Assessments used for this purpose shall be valid and reliable and
40 used for the purposes intended and for the appropriate pupil

1 populations. Local and state academic assessments include, but
2 are not limited to, state standardized assessments, formative,
3 summative, benchmark, end of chapter, end of course, advanced
4 placement, international baccalaureate, college entrance, and
5 performance assessments. For career and technical education,
6 authentic performance assessment is a strong indicator of effective
7 teaching and learning.

8 (2) Effective and comprehensive teacher evaluations, including,
9 but not limited to, curricular and management leadership, ongoing
10 professional development, teacher-principal teamwork, and
11 professional learning communities.

12 (3) Culturally responsive instructional strategies to address and
13 eliminate the achievement gap.

14 (4) The ability to analyze quality instructional strategies and
15 provide effective feedback that leads to instructional improvement.

16 (5) High expectations for all pupils and leadership to ensure
17 active pupil engagement and learning.

18 (6) Collaborative professional practices for improving
19 instructional strategies.

20 (7) Effective school management, including personnel and
21 resource management, organizational leadership, sound fiscal
22 practices, a safe campus environment, and appropriate pupil
23 behavior.

24 (8) Meaningful self-assessment to improve as a professional
25 educator. Self-assessment may include, but not be limited to, a
26 self-assessment on state professional standards for educational
27 leaders and the identification of areas of strengths and areas for
28 professional growth to engage in activities to foster professional
29 growth.

30 (9) Consistent and effective relationships with pupils, parents,
31 teachers, staff, and other administrators.

32 ~~SEC. 11.~~

33 *SEC. 8.* Section 44830.1 of the Education Code is amended to
34 read:

35 44830.1. (a) In addition to any other prohibition or provision,
36 a person who has been convicted of a violent or serious felony
37 shall not be hired by a school district in a position requiring
38 certification qualifications or supervising positions requiring
39 certification qualifications. A school district shall not retain in
40 employment a current certificated employee who has been

1 convicted of a violent or serious felony and who is a temporary
2 employee, a substitute employee, or a probationary employee
3 serving before March 15 of the employee's third probationary
4 year. If any conviction is reversed and the formerly convicted
5 person is acquitted of the offense in a new trial, or the charges are
6 dismissed, this section does not prohibit his or her employment
7 thereafter.

8 (b) This section applies to any violent or serious offense that,
9 if committed in this state, would have been punishable as a violent
10 or serious felony.

11 (c) (1) For purposes of this section, a violent felony is any
12 felony listed in subdivision (c) of Section 667.5 of the Penal Code
13 and a serious felony is any felony listed in subdivision (c) of
14 Section 1192.7 of the Penal Code.

15 (2) For purposes of this section, a plea of nolo contendere to a
16 serious or violent felony constitutes a conviction.

17 (3) For purposes of this section, the term "school district" has
18 the same meaning as defined in Section 41302.5.

19 (d) When the governing board of a school district requests a
20 criminal record summary of a temporary, substitute, or probationary
21 certificated employee, two fingerprint cards, bearing the legible
22 rolled and flat impressions of the person's fingerprints together
23 with a personal description and the fee, shall be submitted, by any
24 means authorized by the Department of Justice, to the Department
25 of Justice.

26 (e) When the Department of Justice ascertains that an individual
27 who is an applicant for employment by a school district has been
28 convicted of a violent or serious felony, or for purposes of
29 implementing the prohibitions set forth in Section 44836, any sex
30 offense, as defined in Section 44010, or any controlled substance
31 offense, as defined in Section 44011, the department shall notify
32 the school district of the criminal information pertaining to the
33 applicant. The notification shall be delivered by telephone or
34 electronic mail to the school district. The notification to the school
35 district shall cease to be made once the statewide electronic
36 fingerprinting network is returning responses within three working
37 days. The Department of Justice shall send by first-class mail or
38 electronic mail a copy of the criminal information to the
39 Commission on Teacher Credentialing. The Department of Justice
40 may charge a reasonable fee to cover the costs associated with

1 processing, reviewing, and supplying the criminal record summary
2 required by this section. In no event shall the fee exceed the actual
3 costs incurred by the Department of Justice.

4 (f) Notwithstanding subdivision (a), a person shall not be denied
5 employment or terminated from employment solely on the basis
6 that the person has been convicted of a violent or serious felony
7 if the person has obtained a certificate of rehabilitation and pardon
8 pursuant to Chapter 3.5 (commencing with Section 4852.01) of
9 Title 6 of Part 3 of the Penal Code.

10 (g) Notwithstanding subdivision (f), a person shall not be denied
11 employment or terminated from employment solely on the basis
12 that the person has been convicted of a serious felony that is not
13 also a violent felony if that person can prove to the sentencing
14 court of the offense in question, by clear and convincing evidence,
15 that he or she has been rehabilitated for the purposes of school
16 employment for at least one year. If the offense in question
17 occurred outside this state, then the person may seek a finding of
18 rehabilitation from the court in the school district in which he or
19 she is a resident.

20 (h) Notwithstanding any other law, when the Department of
21 Justice notifies a school district by telephone or electronic mail
22 that a current temporary employee, substitute employee, or
23 probationary employee serving before March 15 of the employee's
24 third probationary year has been convicted of a violent or serious
25 felony, that employee shall immediately be placed on leave without
26 pay. When the school district receives written electronic
27 notification of the fact of conviction from the Department of
28 Justice, the employee shall be terminated automatically and without
29 regard to any other procedure for termination specified in this code
30 or school district procedures unless the employee challenges the
31 record of the Department of Justice and the Department of Justice
32 withdraws in writing its notification to the school district. Upon
33 receipt of written withdrawal of notification from the Department
34 of Justice, the employee shall immediately be reinstated with full
35 restoration of salary and benefits for the period of time from the
36 suspension without pay to the reinstatement.

37 (i) An employer shall request subsequent arrest service from
38 the Department of Justice as provided under Section 11105.2 of
39 the Penal Code.

(j) Notwithstanding Section 47610, this section applies to a charter school.

(k) This section shall not apply to a certificated employee who applies to renew his or her credential when both of the following conditions have been met:

(1) The employee's original application for credential was accompanied by that person's fingerprints.

(2) The employee has either been continuously employed in one or more public school districts since the issuance or last renewal of his or her credential or his or her credential has not expired between renewals.

(l) Nothing in this section shall prohibit a county superintendent of schools from issuing a temporary certificate to any person described in paragraph (1) or (2) of subdivision (k).

(m) This section shall not prohibit a school district from hiring a certificated employee who became a permanent employee of another school district as of October 1, 1997.

(n) All information obtained from the Department of Justice is confidential. Every agency handling Department of Justice information shall ensure all of the following:

(1) A recipient shall not disclose its contents or provide copies of information.

(2) Information received shall be stored in a locked file separate from other files and shall only be accessible to the custodian of records.

(3) Information received shall be destroyed upon the hiring determination in accordance with subdivision (a) of Section 708 of Title 11 of the California Code of Regulations.

(4) Compliance with destruction, storage, dissemination, auditing, backgrounding, and training requirements as set forth in Sections 700 to 708, inclusive, of Title 11 of the California Code of Regulations and Section 11077 of the Penal Code governing the use and security of criminal offender record information is the responsibility of the entity receiving the information from the Department of Justice.

~~SEC. 12.~~

SEC. 9. Section 44885.5 of the Education Code is amended to read:

44885.5. (a) (1) A school district shall classify a person who is employed as a district intern pursuant to Section 44830.3 and a

1 person who has completed service in the school district as a district
2 intern pursuant to subdivision (b) of Section 44325 and Section
3 44830.3 and is reelected for the ~~next two~~ succeeding school years
4 *year, or the second succeeding school year*, to a position requiring
5 certification qualifications as a probationary employee of the school
6 district.

7 (2) The governing board of a school district may dismiss or
8 suspend employees classified as probationary employees *for the*
9 *first succeeding school year* pursuant to this subdivision in
10 accordance with the procedures specified in Section 44948 or
11 44948.3, as applicable.

12 (b) A highly effective certificated employee who has completed
13 service as a district intern pursuant to subdivision (b) of Section
14 44325 and pursuant to Section 44830.3 and who is further reelected
15 and employed *for the two succeeding school years* as described in
16 subdivision (a) shall, upon reelection for the ~~next third~~ succeeding
17 school year, to a position requiring certification qualifications, be
18 classified as and become a permanent employee of the school
19 district.

20 ~~(e) (1) Notwithstanding subdivision (b), the governing board~~
21 ~~of a school district may require a certificated employee who has~~
22 ~~completed service as a district intern pursuant to subdivision (b)~~
23 ~~of Section 44325 and pursuant to Section 44830.3 and who is~~
24 ~~further reelected and employed as described in subdivision (a) to~~
25 ~~continue to be classified as a probationary employee for a fourth~~
26 ~~year.~~

27 (2)

28 ~~(c) A certificated employee who is reelected as a probationary~~
29 ~~employee pursuant to this subdivision or to a second succeeding~~
30 ~~school year as described in subdivision (a) shall participate in~~
31 ~~either the California Peer Assistance and Review Program for~~
32 ~~Teachers established pursuant to Article 4.5 (commencing with~~
33 ~~Section 44500) of Chapter 3 or a district-designed, and collectively~~
34 ~~bargained for, if applicable, teacher support program established~~
35 ~~pursuant to Article 4.6 (commencing with Section 44520) of~~
36 ~~Chapter 3; continue to participate in the mentoring relationships~~
37 ~~with the support and professional development providers initiated~~
38 ~~during the California beginning teacher support and assessment~~
39 ~~program pursuant to Section 44279.2. The employee is not required~~

1 *to continue other aspects of the California beginning teacher*
2 *support and assessment program during his or her third year.*

3 ~~(3) Notwithstanding any other law, a third- or fourth-year~~
4 ~~probationary employee shall not be released or dismissed without~~
5 ~~cause and may appeal release or dismissal to the governing board~~
6 ~~of the school district.~~

7 ~~(4) During the third and fourth year as a probationary employee,~~
8 ~~the employee shall be observed by multiple administrators,~~
9 ~~including an administrator from a schoolsite other than the~~
10 ~~schools site at which the employee is on probation, and teacher~~
11 ~~peers. Administrators and teacher peers observing the third-year~~
12 ~~probationary employee shall provide feedback to the governing~~
13 ~~board of the school district regarding the probationary employee's~~
14 ~~proficiency with the California Standards for the Teaching~~
15 ~~Profession, adopted by the Commission on Teacher Credentialing.~~

16 ~~(5) A third-year probationary employee may be dismissed for~~
17 ~~cause or shall be retained for a fourth year as a probationary~~
18 ~~employee after one year of the support program.~~

19 (d) (1) Notwithstanding subdivision (c), a certificated employee
20 who had previously been granted permanent status in another
21 school district who has completed service as a district intern
22 pursuant to subdivision (b) of Section 44325 and pursuant to
23 Section 44830.3, and who is further reelected and employed *for a*
24 *second succeeding school year* as described in subdivision (a)
25 shall, upon reelection for the ~~next~~ *third* succeeding school year to
26 a position requiring certification qualifications, be classified as
27 and become a permanent employee of the school district.

28 (2) Nothing in this subdivision shall be interpreted to authorize
29 a certificated employee who has not previously been granted
30 permanent status in another school district to gain permanent status
31 without meeting the requirements of subdivision (b) or (c).

32 (e) The governing board of a school district shall notify ~~the~~
33 ~~certificated a probationary~~ employee, on or before March 15 of
34 ~~the certificated employee's third second succeeding~~ school year
35 ~~of probationary employment in a position requiring certification~~
36 ~~qualifications~~ as described in subdivision (b), of the decision to
37 ~~reelect as a permanent employee, reelect as a probationary~~
38 ~~employee, or not reelect the certificated employee for the next~~
39 ~~third succeeding school year to this type of position. The governing~~
40 ~~board of a school district shall notify the certificated employee,~~

1 ~~on or before March 15 of the certificated employee's fourth school~~
2 ~~year of probationary employment in a position requiring~~
3 ~~certification qualifications as described in subdivision (b), of the~~
4 ~~decision to reelect as a permanent employee or not reelect the~~
5 ~~certificated employee for the next succeeding school year to this~~
6 ~~type of position.~~ *year.* If the governing board of a school district
7 does not give notice pursuant to this section on or before March
8 15, a ~~certificated~~ *probationary* employee shall be deemed reelected
9 as a permanent employee for the next succeeding school year.

10 (f) For purposes of this section, a "highly effective certificated
11 employee" means a certificated employee who, in the view of the
12 governing board of the school district, demonstrates proficiency
13 with the California Standards for the Teaching Profession or
14 district-developed standards that align with the California Standards
15 for the Teaching Profession. Proficiency shall be demonstrated by
16 an evaluation that conforms with Article 11 (commencing with
17 Section 44660) of Chapter 3 designating the certificated employee
18 in the highest category the school district has established pursuant
19 to subdivision (c) of Section 44664.

20 (g) To the extent that this section as amended by Assembly Bill
21 934 of the 2015–16 Regular Session conflicts with a provision of
22 a collective bargaining agreement entered into by a public school
23 employer and an exclusive bargaining representative before January
24 1, 2017, pursuant to Chapter 10.7 (commencing with Section 3540)
25 of Division 4 of Title 1 of the Government Code, the changes made
26 to this section by Assembly Bill 934 of the 2015–16 Regular
27 Session shall not apply until expiration or renewal of that collective
28 bargaining agreement.

29 ~~SEC. 13.~~

30 *SEC. 10.* Section 44901 of the Education Code is amended to
31 read:

32 44901. (a) (1) A certificated employee who has served in a
33 position or positions requiring certification qualifications in two
34 or more school districts, each having an average daily attendance
35 of 250 pupils or more and governed by governing boards of
36 identical personnel, for a total of three complete consecutive school
37 years, upon being elected for the fourth consecutive school year
38 to a position or positions requiring certification qualifications in
39 any of the school districts, shall at the commencement of the fourth
40 consecutive school year be classified as a permanent employee of

1 the last school district in which he or she was employed before his
2 or her election for the fourth consecutive school year.

3 (2) Where there are two or more school districts, each having
4 an average daily attendance of 250 pupils or more and governed
5 by governing boards of identical personnel, a certificated employee
6 who has served in one of the school districts for three complete
7 consecutive school years, upon being elected for the fourth
8 consecutive school year to a position or positions requiring
9 certification qualifications in any of the school districts, shall at
10 the commencement of the fourth consecutive school year be
11 classified as and become a permanent employee of the last school
12 district in which he or she was employed before his or her election
13 for the fourth consecutive school year.

14 (3) This subdivision shall apply only to probationary employees
15 whose probationary period commenced before the 1983–84 fiscal
16 year.

17 (b) (1) A certificated employee who has served in a position
18 or positions requiring certification qualifications in two or more
19 school districts, each having an average daily attendance of 250
20 pupils or more and governed by governing boards of identical
21 personnel, for a total of three complete consecutive school years,
22 upon being elected for the fourth consecutive school year to a
23 position or positions requiring certification qualifications in any
24 of the school districts, shall at the commencement of the fourth
25 consecutive school year be classified as a permanent employee of
26 the last school district in which he or she was employed before his
27 or her election for the fourth consecutive school year.

28 (2) Where there are two or more school districts, each having
29 an average daily attendance of 250 pupils or more and governed
30 by governing boards of identical personnel, a certificated employee
31 who has served in one of the school districts for three complete
32 consecutive school years, upon being elected for the fourth
33 consecutive school year to a position or positions requiring
34 certification qualifications in any of the school districts, shall at
35 the commencement of the fourth consecutive school year be
36 classified as and become a permanent employee of the last school
37 district in which he or she was employed before his or her election
38 for the fourth consecutive school year.

39 (3) The governing board of the school district shall notify the
40 employee, on or before March 15 of the employee's third complete

1 consecutive school year of employment by the school districts in
2 a position or positions requiring certification qualifications, of the
3 decision to reelect or not reelect the employee for the next
4 succeeding school year to such a position. If the governing board
5 of the school district does not give notice pursuant to this section
6 on or before March 15, the employee shall be deemed reelected
7 for the next succeeding school year.

8 (4) This subdivision shall apply only to probationary employees
9 whose probationary period commenced during the 1983–84 fiscal
10 year or any fiscal year thereafter.

11 ~~SEC. 14.~~

12 *SEC. 11.* Section 44929.21 of the Education Code is amended
13 to read:

14 44929.21. (a) (1) Every employee of a school district of any
15 type or class having an average daily attendance of 250 *pupils* or
16 more who, after having been employed by the school district for
17 three complete consecutive school years in a position or positions
18 requiring certification qualifications, is reelected for the next
19 succeeding school year to a position requiring certification
20 qualifications shall, at the commencement of the succeeding school
21 year, be classified as and become a permanent employee of the
22 school district.

23 (2) This subdivision shall apply only to probationary employees
24 whose probationary period commenced before the 1983–84 fiscal
25 year.

26 (b) A highly effective certificated employee of a school district
27 of any type or class having an average daily attendance of 250
28 *pupils* or more who, after having been employed by the school
29 district for three complete consecutive school years, is reelected
30 for the next succeeding school year to a position requiring
31 certification qualifications shall, at the commencement of the
32 succeeding school year, be classified as and become a permanent
33 employee of the school district.

34 ~~(c) (1) Notwithstanding subdivision (b), the governing board~~
35 ~~of a school district may require a certificated employee who, after~~
36 ~~having been employed by the school district for three complete~~
37 ~~consecutive school years and who is further reelected and employed~~
38 ~~during the succeeding school year, to continue to be classified as~~
39 ~~a probationary employee for a fourth year.~~

40 (2)

1 (c) A certificated employee who is reelected as a probationary
2 employee pursuant to this subdivision or to a third complete
3 consecutive school year as described in subdivision (b) shall
4 participate in either the California Peer Assistance and Review
5 Program for Teachers established pursuant to Article 4.5
6 (commencing with Section 44500) of Chapter 3 or a
7 district-designed, and collectively bargained for, if applicable,
8 teacher support program established pursuant to Article 4.6
9 (commencing with Section 44520) of Chapter 3. *continue to*
10 *participate in the mentoring relationships with the support and*
11 *professional development providers initiated during the California*
12 *beginning teacher support and assessment program pursuant to*
13 *Section 44279.2. The employee is not required to continue other*
14 *aspects of the California beginning teacher support and assessment*
15 *program during his or her third year.*

16 (3) ~~Notwithstanding any other law, a third- or fourth-year~~
17 ~~probationary employee shall not be released or dismissed without~~
18 ~~cause and may appeal release or dismissal to the governing board~~
19 ~~of the school district.~~

20 (4) ~~During the third and fourth year as a probationary employee,~~
21 ~~the employee shall be observed by multiple administrators,~~
22 ~~including an administrator from a schoolsite other than the~~
23 ~~schoolsites at which the employee is on probation, and teacher~~
24 ~~peers. Administrators and teacher peers observing the third-year~~
25 ~~probationary employee shall provide feedback to the governing~~
26 ~~board of the school district regarding the probationary employee's~~
27 ~~proficiency with the California Standards for the Teaching~~
28 ~~Profession, adopted by the Commission on Teacher Credentialing.~~

29 (5) ~~A third-year probationary employee may be dismissed for~~
30 ~~cause or shall be retained for a fourth year as a probationary~~
31 ~~employee after one year of the support program.~~

32 (d) (1) Notwithstanding subdivision (c), a certificated employee
33 who had previously been granted permanent status in another
34 school district and who is further reelected and employed during
35 the succeeding school year as described in subdivision (b) shall,
36 upon reelection for the next succeeding school year to a position
37 requiring certification qualifications, be classified as and become
38 a permanent employee of the school district.

39 (2) Nothing in this subdivision shall be interpreted to authorize
40 a certificated employee who has not previously been granted

1 permanent status in another school district to gain permanent status
2 without meeting the requirements of subdivision (b) or (c).

3 (e) The governing board of a school district shall notify a
4 certificated employee, on or before March 15 of the certificated
5 employee's third school year of probationary employment in a
6 position requiring certification qualifications, of the decision to
7 reelect as a permanent employee, ~~reelect as a probationary~~
8 employee, or not reelect the certificated employee for the next
9 succeeding school year to this type of position. ~~The governing~~
10 ~~board of a school district shall notify a certificated employee, on~~
11 ~~or before March 15 of the certificated employee's fourth school~~
12 ~~year of probationary employment in a position requiring~~
13 ~~certification qualifications, of the decision to reelect as a permanent~~
14 ~~employee or not reelect the certificated employee for the next~~
15 ~~succeeding school year to this type of position.~~ If the governing
16 board of a school district does not give notice pursuant to this
17 section on or before March 15, a certificated employee shall be
18 deemed reelected as a permanent employee for the next succeeding
19 school year.

20 (f) For purposes of this section, a "highly effective certificated
21 employee" means a certificated employee who, in the view of the
22 governing board of the school district, demonstrates proficiency
23 with the California Standards for the Teaching Profession or
24 district-developed standards that align with the California Standards
25 for the Teaching Profession. Proficiency shall be demonstrated by
26 an evaluation that conforms with Article 11 (commencing with
27 Section 44660) of Chapter 3 designating the certificated employee
28 in the highest category the school district has established pursuant
29 to subdivision (c) of Section 44664.

30 (g) To the extent that this section as amended by Assembly Bill
31 934 of the 2015–16 Regular Session conflicts with a provision of
32 a collective bargaining agreement entered into by a public school
33 employer and an exclusive bargaining representative before January
34 1, 2017, pursuant to Chapter 10.7 (commencing with Section 3540)
35 of Division 4 of Title 1 of the Government Code, the changes made
36 to this section by Assembly Bill 934 of the 2015–16 Regular
37 Session shall not apply until expiration or renewal of that collective
38 bargaining agreement.

(h) Subdivisions (b) to (g), inclusive, shall apply only to probationary employees whose probationary period commenced during the 1983–84 fiscal year or any fiscal year thereafter.

~~SEC. 15.~~

SEC. 12. Section 44929.23 of the Education Code is amended to read:

44929.23. (a) The governing board of a school district of any type or class having an average daily attendance of fewer than 250 pupils may classify as a permanent employee of the school district an employee who, after having been employed by the school district for three complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications. If that classification is not made, the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until a change in classification is made.

(b) Notwithstanding subdivision (a), Section 44929.21 shall apply to certificated employees employed by a school district, if the governing board of the school district elects to dismiss probationary employees pursuant to Section 44948.2. If that election is made, the governing board of the school district thereafter shall classify as a permanent employee of the school district a probationary employee who, after being employed for three complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications, ~~unless the governing board of the school district requires the employee to continue to be classified as a probationary employee for a fourth year pursuant to Section 44929.21.~~ *qualifications.* A probationary employee who has been employed by the school district for three or more consecutive years on the date of that election in a position or positions requiring certification qualifications shall be classified as a permanent employee of the school district.

(c) If the classification is not made pursuant to subdivision (a) or (b), the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until the classification is made.

1 ~~SEC. 16. Section 44934 of the Education Code is amended to~~
2 ~~read:~~

3 ~~44934. (a) This section shall apply to dismissal or suspension~~
4 ~~proceedings based on charges as specified in Section 44932 or~~
5 ~~44933, including proceedings based on charges of egregious~~
6 ~~misconduct in combination with other charges, except this section~~
7 ~~shall not apply to dismissal or suspension proceedings based on~~
8 ~~charges of unsatisfactory performance described in paragraph (5)~~
9 ~~of subdivision (a) of Section 44932. Section 44934.1 shall apply~~
10 ~~to dismissal or suspension proceedings based solely on charges of~~
11 ~~egregious misconduct described in paragraph (1) of subdivision~~
12 ~~(a) of Section 44932. Section 44934.2 shall apply to dismissal or~~
13 ~~suspension proceedings based on charges of unsatisfactory~~
14 ~~performance described in paragraph (5) of subdivision (a) of~~
15 ~~Section 44932.~~

16 ~~(b) Upon the filing of written charges, duly signed and verified~~
17 ~~by the person filing them, with the governing board of the school~~
18 ~~district, or upon a written statement of charges formulated by the~~
19 ~~governing board of the school district, charging that there exists~~
20 ~~cause, as specified in Section 44932 or 44933, for the dismissal~~
21 ~~or suspension of a permanent employee of the school district, the~~
22 ~~governing board of the school district may, upon majority vote,~~
23 ~~except as provided in this article if it deems the action necessary,~~
24 ~~give notice to the permanent employee of its intention to dismiss~~
25 ~~or suspend him or her at the expiration of 30 days from the date~~
26 ~~of service of the notice, unless the employee demands a hearing~~
27 ~~as provided in this article. Suspension proceedings may be initiated~~
28 ~~pursuant to this section only if the governing board of the school~~
29 ~~district has not adopted a collective bargaining agreement pursuant~~
30 ~~to subdivision (b) of Section 3543.2 of the Government Code.~~

31 ~~(c) Any written statement of charges shall specify instances of~~
32 ~~behavior and the acts or omissions constituting the charge so that~~
33 ~~the employee will be able to prepare his or her defense. It shall,~~
34 ~~where applicable, state the statutes and rules that the employee is~~
35 ~~alleged to have violated, and it shall also set forth the facts relevant~~
36 ~~to each charge.~~

37 ~~(d) If the governing board of the school district has given notice~~
38 ~~to a certificated employee of its intention to dismiss or suspend~~
39 ~~him or her, based upon written charges filed or formulated pursuant~~
40 ~~to this section, the charges may be amended less than 90 days~~

1 before the hearing on the charges only upon a showing of good
2 cause. If a motion to amend charges is granted by the administrative
3 law judge, the employee shall be given a meaningful opportunity
4 to respond to the amended charges.

5 (e) A notice of the governing board of the school district to an
6 employee of its intention to dismiss or suspend him or her, together
7 with written charges filed or formulated pursuant to this section,
8 shall be sufficient to initiate a hearing under Section 11503 of the
9 Government Code, and the governing board of the school district
10 shall not be required to file or serve a separate accusation.

11 (f) This section shall also apply to the suspension of probationary
12 employees in a school district with an average daily attendance of
13 fewer than 250 pupils that has not adopted a collective bargaining
14 agreement pursuant to subdivision (b) of Section 3542.2 of the
15 Government Code except that Section 44934.2, and not this section,
16 shall apply to dismissal or suspension proceedings based on charges
17 of unsatisfactory performance described in paragraph (5) of
18 subdivision (a) of Section 44932.

19 SEC. 17. Section 44934.2 is added to the Education Code, to
20 read:

21 44934.2. (a) This section shall apply only to dismissal or
22 suspension proceedings based solely on charges of unsatisfactory
23 performance, as described in paragraph (5) of subdivision (a) of
24 Section 44932.

25 (b) Upon the filing of written charges, duly signed and verified
26 by the person filing them, with the governing board of a school
27 district, or upon a written statement of charges formulated by the
28 governing board of a school district charging that there exists
29 cause, as specified in paragraph (5) of subdivision (a) of Section
30 44932, for the dismissal or suspension of a permanent employee
31 of the school district, the governing board of the school district
32 may, upon majority vote, except as provided in this article if it
33 deems the action necessary, give notice to the permanent employee
34 of its intention to dismiss or suspend him or her at the expiration
35 of 30 days from the date of service of the notice, unless the
36 employee demands an arbitration hearing pursuant to Section
37 44944.2.

38 (c) Any written statement of charges of unsatisfactory
39 performance shall specify instances of behavior and the acts or
40 omissions constituting the charge so that the employee will be able

1 to prepare his or her defense. The written statement of charges
2 shall, where applicable, state the statutes and rules that the
3 employee is alleged to have violated, and it shall also set forth the
4 facts relevant to each occasion of alleged unsatisfactory
5 performance.

6 (d) This section shall also apply to the suspension of
7 probationary employees based solely on charges of unsatisfactory
8 performance, as described in paragraph (5) of subdivision (a) of
9 Section 44932 in a school district with an average daily attendance
10 of fewer than 250 pupils that has not adopted a collective
11 bargaining agreement pursuant to subdivision (b) of Section 3543.2
12 of the Government Code.

13 SEC. 18. Section 44937 of the Education Code is amended to
14 read:

15 44937. In a dismissal or suspension proceeding initiated
16 pursuant to Section 44934, 44934.1, or 44934.2, if the certificated
17 employee does not demand a hearing by filing a written request
18 for hearing with the governing board of the school district, he or
19 she may be dismissed or suspended without pay for a specific
20 period of time at the expiration of the 30-day period.

21 SEC. 19. Section 44938 of the Education Code is amended to
22 read:

23 44938. (a) The governing board of a school district shall not
24 act upon any charges of unprofessional conduct unless at least 45
25 calendar days before the date of the filing, the governing board of
26 the school district or its authorized representative has given the
27 employee against whom the charge is filed written notice of the
28 unprofessional conduct, specifying the nature thereof with such
29 specific instances of behavior and with such particularity as to
30 furnish the employee an opportunity to correct his or her faults
31 and overcome the grounds for the charge. The written notice shall
32 include the evaluation made pursuant to Article 11 (commencing
33 with Section 44660) of Chapter 3, if applicable to the employee.

34 (b) The governing board of a school district shall not act upon
35 any charges of unsatisfactory performance unless the employee
36 against whom the charge is filed has completed at least one year
37 of the California Peer Assistance and Review Program for Teachers
38 established pursuant to Article 4.5 (commencing with Section
39 44500) of Chapter 3 or a district-designed, and collectively
40 bargained for, if applicable, teacher support program established

~~pursuant to Article 4.6 (commencing with Section 44520) of Chapter 3 during the previous two years or, if the school district has established such a program, a one-year district-designed administrator support program established pursuant to Article 4.7 (commencing with Section 44550) of Chapter 3 during the previous year.~~

~~(e) (1) “Unsatisfactory performance” as used in this section means, and refers only to, the unsatisfactory performance particularly specified as a cause for dismissal in Section 44932 and does not include any other cause for dismissal specified in Section 44932.~~

~~(2) “Unprofessional conduct” as used in this section means, and refers to, the unprofessional conduct particularly specified as a cause for dismissal or suspension in Sections 44932 and 44933 and does not include any other cause for dismissal specified in Section 44932.~~

~~SEC. 20. Section 44943 of the Education Code is amended to read:~~

~~44943. When any employee who has been served with notice pursuant to Section 44934, 44934.1, or 44934.2 of the governing board of the school district’s intention to dismiss or suspend him or her demands a hearing, the governing board of the school district shall have the option either (a) to rescind its action, or (b) schedule a hearing on the matter.~~

~~SEC. 21. Section 44944.05 of the Education Code is amended to read:~~

~~44944.05. (a) In a dismissal or suspension proceeding initiated pursuant to Section 44934, in lieu of written discovery required pursuant to Section 11507.6 of the Government Code, the parties shall make disclosures as described in this section. This section does not apply to dismissal or suspension proceedings initiated pursuant to Section 44934.1 or 44934.2.~~

~~(b) (1) An initial disclosure shall comply with the following requirements:~~

~~(A) A party shall, without awaiting a discovery request, provide to the other parties both of the following:~~

~~(i) The name and, if known, the address and telephone number of each individual likely to have discoverable information, along with the subjects of information relating to the allegations made~~

1 in the charges and the parties' claims and defenses, unless the use
2 would be solely for impeachment purposes.

3 (ii) ~~A copy of all documents, electronically stored information,~~
4 ~~and tangible items that the disclosing party has in its possession,~~
5 ~~custody, or control relating to the allegations made in the charges~~
6 ~~and the parties' claims or defenses, unless the use would be solely~~
7 ~~for impeachment.~~

8 (B) ~~The school district and the employee shall make their initial~~
9 ~~disclosures within 45 days of the date of the employee's demand~~
10 ~~for a hearing.~~

11 (C) ~~A party shall make its initial disclosures based on the~~
12 ~~information then reasonably available to it. A party is not excused~~
13 ~~from making its disclosures because it has not fully investigated~~
14 ~~the case or because it challenges the sufficiency of another party's~~
15 ~~disclosures. A party's failure to make initial disclosures within the~~
16 ~~deadlines set forth in this section shall preclude the party from~~
17 ~~introducing witnesses or evidence not disclosed at the hearing,~~
18 ~~unless the party shows good cause for its failure to timely disclose.~~

19 (D) ~~A party has an obligation to promptly supplement its initial~~
20 ~~disclosures as new information or evidence becomes known or~~
21 ~~available. Supplemental disclosures shall be made as soon as~~
22 ~~possible, and no later than 60 days before the date of~~
23 ~~commencement of the hearing. A party's failure to make~~
24 ~~supplemental disclosures promptly upon discovery or availability~~
25 ~~of new information or evidence shall preclude the party from~~
26 ~~introducing witnesses or evidence not disclosed at the hearing,~~
27 ~~unless the party shows good cause for its failure to timely disclose.~~

28 (2) ~~The disclosure of expert testimony shall comply with the~~
29 ~~following requirements:~~

30 (A) ~~A party shall also disclose to the other parties the identities~~
31 ~~of any expert witnesses whose testimony it may use at the hearing.~~

32 (B) ~~The disclosure specified in subparagraph (A) shall be~~
33 ~~accompanied by a summary of the witness' expected testimony,~~
34 ~~including a description of the facts and data considered by the~~
35 ~~witness; a description of the witness' qualifications, including a~~
36 ~~list of all publications authored in the previous 10 years; a list of~~
37 ~~all other cases in which, during the previous four years, the witness~~
38 ~~testified as an expert at a hearing or by deposition; and a statement~~
39 ~~of the compensation to be paid to the expert witness.~~

1 ~~(C) Expert witness disclosures shall be made no later than 60~~
2 ~~days before the date of commencement of the hearing. A party's~~
3 ~~failure to make full and timely expert witness disclosures shall~~
4 ~~preclude the party's use of the expert witness' testimony or~~
5 ~~evidence at the hearing.~~

6 ~~(3) Prehearing disclosures shall comply with the following~~
7 ~~requirements:~~

8 ~~(A) In addition to the disclosures required in paragraphs (1) and~~
9 ~~(2), a party shall provide to the other parties the following~~
10 ~~information about the evidence that it may present at the hearing:~~

11 ~~(i) The name, and, if not previously provided, the address and~~
12 ~~telephone number of each witness, separately identifying those~~
13 ~~the party expects to present and those it may call if the need arises.~~

14 ~~(ii) An identification of each exhibit, separately identifying~~
15 ~~those items the party expects to offer and those it may offer if the~~
16 ~~need arises.~~

17 ~~(B) Prehearing disclosures shall be made at least 30 days before~~
18 ~~the hearing.~~

19 ~~(i) Within 14 days after prehearing disclosures are made, a party~~
20 ~~shall file and serve any objections, along with the grounds for each~~
21 ~~objection, to the admissibility of evidence.~~

22 ~~(ii) These objections shall be decided on the first day of the~~
23 ~~hearing, or at a prehearing conference conducted pursuant to~~
24 ~~Section 11511.5 of the Government Code. Documents and~~
25 ~~individuals not timely disclosed without good cause shall be~~
26 ~~precluded from admission at the hearing.~~

27 ~~(e) In addition to the disclosures required by subdivision (a),~~
28 ~~the parties may obtain discovery by oral deposition in California,~~
29 ~~in accordance with Sections 2025.010 to 2025.620, inclusive, of~~
30 ~~the Code of Civil Procedure, except as described in this article.~~
31 ~~The school district may take the depositions of the employee and~~
32 ~~no more than four other witnesses, and the employee may take~~
33 ~~depositions of no more than five witnesses. Each witness deposition~~
34 ~~is limited to seven hours. An administrative law judge may allow~~
35 ~~the parties to conduct additional depositions only upon a showing~~
36 ~~of good cause. If a motion to conduct additional depositions is~~
37 ~~granted by the administrative law judge, the employee shall be~~
38 ~~given a meaningful opportunity to respond to new evidence~~
39 ~~introduced as a result of the additional depositions. An order~~
40 ~~granting a motion for additional depositions shall not constitute~~

1 ~~an extraordinary circumstance or good cause for purposes of~~
2 ~~extending the deadlines set forth in paragraph (1) of subdivision~~
3 ~~(b) of Section 44944.~~

4 ~~(d) If the right to disclosures or oral depositions is denied by~~
5 ~~either the employee or the governing board of a school district,~~
6 ~~the exclusive right of a party seeking an order compelling~~
7 ~~production of discovery shall be pursuant to Section 11507.7 of~~
8 ~~the Government Code. If a party seeks protection from~~
9 ~~unreasonable or oppressive discovery demands, the exclusive right~~
10 ~~of a party seeking an order for protection shall be pursuant to~~
11 ~~Section 11450.30 of the Government Code.~~

12 ~~SEC. 22. Section 44944.2 is added to the Education Code, to~~
13 ~~read:~~

14 ~~44944.2. (a) This section shall apply only to dismissal or~~
15 ~~suspension proceedings initiated pursuant to Section 44934.2.~~

16 ~~(b) Any permanent certificated employee who has received~~
17 ~~notice of a school district's intention to suspend or dismiss the~~
18 ~~certificated employee based on charges of unsatisfactory~~
19 ~~performance described in paragraph (5) of subdivision (a) of~~
20 ~~Section 44932 may file a written request for arbitration to the~~
21 ~~school district within 14 days after receipt of a copy of the written~~
22 ~~charges by filing a written answer to the charges.~~

23 ~~(c) (1) Within 14 days of receipt of the request for arbitration,~~
24 ~~the school district shall schedule a meeting with the certificated~~
25 ~~employee to identify an arbitrator and set an arbitration date.~~

26 ~~(2) The meeting shall occur at a location and time mutually~~
27 ~~convenient for the certificated employee and the school district.~~
28 ~~The certificated employee shall have the right to appear with a~~
29 ~~representative of the certificated employee's collective bargaining~~
30 ~~unit, counsel, or both.~~

31 ~~(3) At the meeting, the certificated employee and the school~~
32 ~~district shall agree upon an arbitrator, selected from the list of~~
33 ~~arbitrators maintained by the American Arbitration Association,~~
34 ~~and a time and place for an arbitration hearing. The hearing shall~~
35 ~~be scheduled for no fewer than 21 days and no more than 37 days~~
36 ~~after the scheduling meeting.~~

37 ~~(4) A party shall, without awaiting a discovery request, provide~~
38 ~~to the other parties both of the following:~~

39 ~~(A) The name and, if known, the address and telephone number~~
40 ~~of each individual likely to have discoverable information, along~~

1 with the subjects of information relating to the allegations made
2 in the charges and the parties' claims and defenses, unless the use
3 would be solely for impeachment purposes.

4 (B) A copy of all documents, electronically stored information,
5 and tangible items that the disclosing party has in its possession,
6 custody, or control relating to the allegations made in the charges
7 and the parties' claims or defenses, unless the use would be solely
8 for impeachment.

9 (5) The school district and the certificated employee shall make
10 their initial disclosures within 14 days of the date of the scheduled
11 meeting.

12 (6) A party shall make its initial disclosures based on the
13 information then reasonably available to it. A party is not excused
14 from making its disclosures because it has not fully investigated
15 the case or because it challenges the sufficiency of another party's
16 disclosures. A party's failure to make initial disclosures within the
17 deadlines set forth in this section shall preclude the party from
18 introducing witnesses or evidence not disclosed at the hearing,
19 unless the party shows good cause for its failure to timely disclose.

20 (d) (1) At the arbitration hearing, the certificated employee
21 shall have the right to appear with a representative of the
22 certificated employee's collective bargaining unit, counsel, or both.

23 (2) The scope of the arbitration hearing shall be limited to both
24 of the following:

25 (A) The process the school district used in evaluating the
26 certificated employee, including, but not limited to, whether the
27 school district's evaluation conformed with Article 11
28 (commencing with Section 44660) of Chapter 3.

29 (B) The charges brought against the certificated employee.

30 (e) The arbitrator shall issue a decision as to whether or not the
31 certificated employee should be dismissed or suspended within 60
32 days of the arbitration hearing. The decision of the arbitrator shall
33 be binding and not appealable.

34 (f) (1) If the arbitrator determines that the certificated employee
35 should be dismissed or suspended, the governing board of the
36 school district and the state shall share equally the expenses of the
37 arbitration. The state shall pay the reasonable expenses of the
38 arbitrator, including, but not limited to, payments or obligations
39 incurred for travel, meals, and lodging. The Controller shall pay
40 all claims submitted pursuant to this paragraph from the General

1 Fund, and may prescribe reasonable rules, regulations, and forms
2 for the submission of the claims. The certificated employee and
3 the governing board of the school district shall pay their own
4 attorney's fees.

5 (2) If the arbitrator determines that the certificated employee
6 should not be dismissed or suspended, the governing board of the
7 school district shall pay the expenses of the hearing, including the
8 reasonable expenses of the arbitrator, including, but not limited
9 to, payments or obligations incurred for travel, meals, and lodging
10 and reasonable attorney's fees incurred by the certificated
11 employee.

12 SEC. 23. Section 44945 of the Education Code is amended to
13 read:

14 44945. (a) The decision reached in a dismissal or suspension
15 proceeding initiated pursuant to Section 44934 or 44934.1 may,
16 on petition of either the governing board of the school district or
17 the employee, be reviewed by a court of competent jurisdiction in
18 the same manner as a decision made by a hearing officer under
19 Chapter 5 (commencing with Section 11500) of Part 1 of Division
20 3 of Title 2 of the Government Code. The court, on review, shall
21 exercise its independent judgment on the evidence. The proceeding
22 shall be set for hearing at the earliest possible date and shall take
23 precedence over all other cases, except older matters of the same
24 character and matters to which special precedence is given by law.

25 (b) This section shall not apply to a decision reached in a
26 dismissal or suspension proceeding initiated pursuant to Section
27 44934.2.

28 SEC. 24. Section 44955 of the Education Code is amended to
29 read:

30 44955. (a) A permanent employee shall not be deprived of his
31 or her position for causes other than those specified in Sections
32 44907 and 44923, and Sections 44932 to 44947, inclusive, and a
33 probationary employee shall not be deprived of his or her position
34 for cause other than as specified in Sections 44948 to 44949,
35 inclusive.

36 (b) (1) If in a school year the average daily attendance in all of
37 the schools of a school district for the first six months that school
38 is in session shall have declined below the corresponding period
39 of either of the previous two school years, if the governing board
40 of the school district determines that attendance in a school district

1 will decline in the following year as a result of the termination of
2 an interdistrict tuition agreement as described in Section 46304,
3 if a particular kind of service is to be reduced or discontinued not
4 later than the beginning of the following school year, or if the
5 amendment of state law requires the modification of curriculum,
6 and if the governing board of the school district determines it
7 necessary by reason of any of these conditions to decrease the
8 number of permanent employees in the school district, the
9 governing board of the school district may terminate the services
10 of not more than a corresponding percentage of the certificated
11 employees of the school district, permanent as well as probationary,
12 at the close of the school year.

13 (2) In computing a decline in average daily attendance for
14 purposes of this section for a newly formed or reorganized school
15 district, each school of the school district shall be deemed to have
16 been a school of the newly formed or reorganized school district
17 for both of the two previous school years.

18 (3) A school district shall not use teacher salary as a factor in
19 determining who is terminated.

20 (4) The governing board of a school district shall terminate
21 certificated employees in the following order:

22 (A) Probationary employees who have received an evaluation
23 of performance in the lowest category, as established pursuant to
24 subdivision (c) of Section 44664 on at least one of the two most
25 recent evaluations.

26 (B) Permanent employees who have received two consecutive
27 evaluations of performance in the lowest category, as established
28 pursuant to subdivision (c) of Section 44664 on the two most recent
29 evaluations.

30 (C) Probationary employees who have not received an evaluation
31 of performance in the lowest category, as established pursuant to
32 subdivision (c) of Section 44664 on either of the two most recent
33 evaluations.

34 (D) Permanent employees who have not received two
35 consecutive evaluations of performance in the lowest category on
36 the two most recent evaluations, beginning with permanent
37 employees in the lowest category and proceeding to permanent
38 employees in the highest category, as determined by each
39 permanent employee's highest evaluated category on either of the

1 two most recent evaluations, as established pursuant to subdivision
2 (e) of Section 44664.

3 ~~(E) As between employees in the same designation pursuant to~~
4 ~~subparagraphs (A) to (C), inclusive, or subdesignation pursuant~~
5 ~~to subparagraph (D), the governing board of the school district~~
6 ~~shall determine the order of termination solely on the basis of who~~
7 ~~first rendered paid service to the school district, with the least~~
8 ~~senior employee being dismissed first. As between employees in~~
9 ~~the same designation pursuant to subparagraphs (A) to (C),~~
10 ~~inclusive, or subdesignation pursuant to subparagraph (D), who~~
11 ~~first rendered paid service to the school district on the same date,~~
12 ~~and demonstrate equivalent teacher effectiveness, the governing~~
13 ~~board of the school district shall determine the order of termination~~
14 ~~solely on the basis of needs of the school district and the pupils of~~
15 ~~the school district. Upon the request of an employee whose order~~
16 ~~of termination is so determined, the governing board of the school~~
17 ~~district shall furnish in writing, no later than five days before the~~
18 ~~commencement of the hearing held in accordance with Section~~
19 ~~44949, a statement of the specific criteria used in determining the~~
20 ~~order of termination and the application of the criteria in ranking~~
21 ~~each employee relative to the other employees in the group. The~~
22 ~~requirement that the governing board of a school district provide,~~
23 ~~on request, a written statement of reasons for determining the order~~
24 ~~of termination shall not be interpreted to give affected employees~~
25 ~~any legal right or interest that would not exist without the~~
26 ~~requirement.~~

27 ~~(e) (1) Notice of the termination of services shall be given~~
28 ~~before the 15th of May in the manner prescribed in Section 44949.~~
29 ~~If a permanent or probationary employee is not given notice and~~
30 ~~a right to a hearing as provided for in Section 44949, he or she~~
31 ~~shall be deemed reemployed for the ensuing school year.~~

32 ~~(2) The governing board of a school district shall make~~
33 ~~assignments and reassignments in a manner that employees shall~~
34 ~~be retained to render any service their seniority, qualifications,~~
35 ~~and effectiveness entitle them to render. However, before assigning~~
36 ~~or reassigning a certificated employee to teach a subject that he or~~
37 ~~she has not previously taught, and for which he or she does not~~
38 ~~have a teaching credential or that is not within the employee's~~
39 ~~major area of postsecondary study or the equivalent thereof, the~~

governing board of the school district shall require the employee to pass a subject matter competency test in the appropriate subject.

~~(d) Notwithstanding subdivisions (b) and (c), a school district may deviate from terminating a certificated employee in order described in subdivision (b) for either of the following reasons:~~

~~(1) The school district demonstrates a specific need for personnel to teach a specific course or course of study, or to provide services authorized by a services credential with a specialization in either pupil personnel services or health for a school nurse, and that the certificated employee has special training and experience necessary to teach that course or course of study or to provide those services; that others with a higher ranking on the order established pursuant to paragraph (4) of subdivision (b) do not possess.~~

~~(2) For purposes of maintaining or achieving compliance with constitutional requirements related to equal protection of the laws.~~

~~(e) To the extent that this section as amended by Assembly Bill 934 of the 2015–16 Regular Session conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2017, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the changes made to this section by Assembly Bill 934 of the 2015–16 Regular Session shall not apply until expiration or renewal of that collective bargaining agreement.~~

~~SEC. 25.~~

SEC. 13. Section 3543.2 of the Government Code is amended to read:

3543.2. (a) (1) The scope of representation shall be limited to matters relating to wages, hours of employment, and other terms and conditions of employment. “Terms and conditions of employment” mean health and welfare benefits as defined by Section 53200, leave, transfer and reassignment policies, safety conditions of employment, class size, procedures to be used for the evaluation of employees, organizational security pursuant to Section 3546, procedures for processing grievances pursuant to Sections 3548.5, 3548.6, 3548.7, and 3548.8, the layoff of probationary certificated school district employees, pursuant to Section 44959.5 of the Education Code, and alternative compensation or benefits for employees adversely affected by pension limitations pursuant to former Section 22316 of the

1 Education Code, as that section read on December 31, 1999, to
2 the extent deemed reasonable and without violating the intent and
3 purposes of Section 415 of the Internal Revenue Code.

4 (2) A public school employer shall give reasonable written
5 notice to the exclusive representative of the public school
6 employer's intent to make any change to matters within the scope
7 of representation of the employees represented by the exclusive
8 representative for purposes of providing the exclusive
9 representative a reasonable amount of time to negotiate with the
10 public school employer regarding the proposed changes.

11 (3) The exclusive representative of certificated personnel has
12 the right to consult on the definition of educational objectives, the
13 determination of the content of courses and curriculum, and the
14 selection of textbooks to the extent those matters are within the
15 discretion of the public school employer under the law.

16 (4) All matters not specifically enumerated are reserved to the
17 public school employer and may not be a subject of meeting and
18 negotiating, except that this section does not limit the right of the
19 public school employer to consult with any employees or employee
20 organization on any matter outside the scope of representation.

21 (b) Notwithstanding Section 44944 of the Education Code, the
22 public school employer and the exclusive representative shall,
23 upon request of either party, meet and negotiate regarding causes
24 and procedures for disciplinary action, ~~other than dismissal,~~
25 ~~including~~ *including, but not limited to*, a suspension of pay for up
26 to 15 ~~days, days or dismissal~~, affecting certificated employees. If
27 the public school employer and the exclusive representative do
28 not reach mutual agreement, Section 44944 of the Education Code
29 shall apply.

30 (c) Notwithstanding Section 44955 of the Education Code, the
31 public school employer and the exclusive representative shall,
32 upon request of either party, meet and negotiate regarding
33 procedures and criteria for the layoff of certificated employees for
34 lack of funds. If the public school employer and the exclusive
35 representative do not reach mutual agreement, Section 44955 of
36 the Education Code shall apply.

37 (d) Notwithstanding Section 45028 of the Education Code, the
38 public school employer and the exclusive representative shall,
39 upon request of either party, meet and negotiate regarding the
40 payment of additional compensation based upon criteria other than

1 years of training and years of experience. If the public school
2 employer and the exclusive representative do not reach mutual
3 agreement, Section 45028 of the Education Code shall apply.

4 (e) Pursuant to Section 45028 of the Education Code, the public
5 school employer and the exclusive representative shall, upon the
6 request of either party, meet and negotiate a salary schedule based
7 on criteria other than a uniform allowance for years of training
8 and years of experience. If the public school employer and the
9 exclusive representative do not reach mutual agreement, the
10 provisions of Section 45028 of the Education Code requiring a
11 salary schedule based upon a uniform allowance for years of
12 training and years of experience shall apply. A salary schedule
13 established pursuant to this subdivision shall not result in the
14 reduction of the salary of a teacher.

15 ~~(f) Notwithstanding Article 4.6 (commencing with Section~~
16 ~~44520) of Chapter 3 of Part 25 of Division 3 of Title 2 of the~~
17 ~~Education Code, the public school employer and the exclusive~~
18 ~~representative shall, upon request of either party, meet and~~
19 ~~negotiate regarding the creation of a two-year teacher support~~
20 ~~program. If the public school employer and the exclusive~~
21 ~~representative do not reach mutual agreement, Article 4.6~~
22 ~~(commencing with Section 44520) of Chapter 3 of Part 25 of~~
23 ~~Division 3 of Title 2 of the Education Code shall apply.~~

24 ~~SEC. 26.~~

25 *SEC. 14.* If the Commission on State Mandates determines that
26 this act contains costs mandated by the state, reimbursement to
27 local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.